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3. Judgment (§ 767*)—Judgment Docket Must Show Names of All Parties to Judgment, Including Christian Names.—Code 1904, § 3560, relating to the manner of docketing judgments, Code 1887, § 3570, making a docketed judgment a lien, and Code 1904, § 3561, requiring judgments to be indexed in the name of each defendant, require the docket to show the names of all the parties in the judgment which must be set out, and the omission of the Christian name is fatal to the lien.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 348, 349.]

4. Judgment (§ 769*)—Under Statute Judgment Must Be Docketed and Indexed in the Name of Each Defendant to Constitute a Lien.—Code 1904, §§ 3560, 3561, and Code 1887, § 3570, relating to the manner and effect of docketing judgments to constitute a lien on realty, require that a docketed judgment shall be indexed in the name of each defendant, and shall not be regarded as docketed as to any defendant in whose name it is not so indexed.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 354.]

5. Judgment (§ 410*)—Dismissal of Bill to Enjoin Sale Pursuant to Decree Ordering Sale to Satisfy Judgments Defectively Docketed and Indexed Held Error.—In a suit to enjoin a sale pursuant to a decree for sale to satisfy certain judgments on the ground that the judgments were not docketed or indexed, as required by Code 1904, §§ 3560, 3561, and Code 1887, § 3570, it was error to dismiss the petition, notwithstanding that the decree under which the sale was proceeding was interlocutory.

[Ed. Note.—For other cases, see 17 Va.-W. Va. Enc. Dig. 562.]

Appeal from Circuit Court, Pulaski County.

Suit by George T. Richardson and others against R. L. Gardner, trustee, etc. Decree for defendant, and plaintiffs appeal. Reversed.

W. B. Snidow, of Pearisburg, *Jno. S. Draper, Jr.*, of Pulaski, *Jackson & Henson*, of Roanoke, and *Harless & Colhoun*, of Christiansburg, for appellants.

H. C. Gilmer, of Pulaski, for appellee.

CORNETT'S EX'RS *v.* COMMONWEALTH.

Sept. 16, 1920.

[105 S. E. 230.]

1. Taxation (§ 868 (1)*)—Domicile of Owner Fixes the Situs of Intangible Personalty for Taxation.—Intangible personal property,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

such as stocks, bonds, and other evidence of indebtedness, are subject to an inheritance tax in the state in which the owner was domiciled at the time of his death, without reference to actual location of the evidences of such indebtedness, because the domicile of the owner fixes for taxation the situs of personality of this character.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 101.]

2. Taxation (§ 856*)—"Inheritance Tax" Is Merely an Excise Imposed on the Transmission of Property.—An inheritance tax is not a tax on the property itself, but is merely an impost or excise which is imposed as a condition precedent to the transmission or transfer of property from the dead to the living.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Inheritance Tax. For other cases, see 12 Va.-W. Va. Enc. Dig. 1017.]

3. Descent and Distribution (§ 1*)—Wills (§ 1*)—Right to Succeed to Property of a Decedent Rests in the Discretion of the Legislature.—The right to succeed to property of a decedent is a privilege which is granted by the state on such terms as may be imposed, and it depends on the statute of wills and statutes of descent and distribution.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 595.]

4. Taxation (§ 865*)—Inheritance Taxes May Be Imposed on Federal Securities and Bonds.—An inheritance tax is not a tax upon property transferred, and so may be imposed on federal bonds and securities which are exempt by federal law from taxation.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 1017.]

5. Constitutional Law (§ 137*)—Taxation (§ 859 (1)*)—Inheritance Tax on Transmission of Federal Securities Not Impairment of Contract of Government's Borrowing Power.—An inheritance tax imposed upon the succession to bonds of the United States which are exempt from Taxes does not impair the obligation of the contract of the borrowing power of the United States government.

6. Taxation (§ 865*)—Inheritance Taxes May Be Imposed, though the Property of the Beneficiary Is Exempt.—As inheritance taxes are merely on the succession, they can be collected though the property of the beneficiary is immune from state taxation, as in case of a legacy to the United States.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 1017.]

7. Taxation (§ 204 (2)*)—Exemptions Are Not Favored, and Burden Is on One Asserting Exemption.—Exemptions from taxation are not favored, and burden is on one who is included in the general language and claims exemption to show some exclusive language creating such exemption.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 110.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

8. Taxation (§ 868 (1)*)—Stock in a Missouri National Bank Owned by Virginia Decedent, Subject to Virginia Inheritance Tax; "Estate within Commonwealth."—Under Tax Bill 1910, § 44, subsec. (a), imposing inheritance taxes upon estates within the commonwealth, stock in a Missouri national bank owned by a Virginia decedent is subject to an inheritance tax, the expression "estate within the commonwealth" including, not only such bank stock, but funds derived from the shares thereof, for the stock had a taxable situs in Virginia because of the testator's domicile.

9. Taxation (§ 868 (2)*)—Domiciliary State May Impose Inheritance Taxes, though State of Situs Has Also Imposed Such Tax.—Stock in a Missouri national bank owned by a Virginia decedent is subject to Virginia inheritance taxes as are funds derived from sale thereof, notwithstanding the state of Missouri imposed collected inheritance taxes; the double taxation not being invalid.

10. Taxation (§ 868 (2)*)—Inheritance Taxes May Be Imposed on Funds Derived from Sales of Decedent's property, and Brought Into State for Distribution.—Where stock in a Missouri national bank owned by a Virginia decedent was sold, and after payment of the Missouri inheritance tax the fund was taken into Virginia for distribution, such fund was subject to inheritance taxes imposed by the state of Virginia.

Error to Circuit Court, Grayson County.

Proceedings between Cornett's executors and the Commonwealth. There was a judgment for latter, and the former bring error. Affirmed.

W. B. Kegley, of Wytheville, and *J. H. Rhudy*, of Galox, for plaintiffs in error.

Jno. R. Saunders, Attorney General and *J. D. Hank, Jr.*, Asst. Atty. Gen., for the Commonwealth.

RADFORD WATER POWER CO. *v.* DUNLAP.

Dec. 1, 1920.

[105 S. E. 257]

1. Master and Servant (§ 40 (1)*)—Contract Breach Must Be Proved by Party Alleging It.—In an action for breach of contract of employment as general manager for a water power company, it was incumbent on plaintiff to establish both the contract and the breach.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 347.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.